

# PUBLIC NOTICE

FEDERAL COMMUNICATIONS COMMISSION

445 12th STREET, S.W.

WASHINGTON, D.C. 20554

DA 00-359

News media information 202/418-0500 Fax-On-Demand 202/41 5-2830 Internet: <http://www.fcc.gov/ftp.fcc.gov>

Released: February 24, 2000

## **WIRELESS TELECOMMUNICATIONS BUREAU SEEKS COMMENT ON APPLICATION TO TRANSFER INTERESTS IN NEW YORK RSA 2 CELLULAR PARTNERSHIP**

### **PLEADING CYCLE ESTABLISHED**

**Comments/Petitions due: March 27, 2000**

**Responses/Oppositions due: April 6, 2000**

On May 18, 1999, an application (File No. 0000013536) was filed to transfer control of New York RSA 2 Cellular Partnership (NY2CP), wireline cellular licensee of New York RSA #2 – Franklin. At that time, NY2CP was a general partnership in which Newport Telephone Company, Inc. (Newport Telephone), K&S Communications (K&S), Westelcom Communications, Inc. (Westelcom Communications), and Crown Point Network Technologies (Crown Point Technologies) each held a 14.3% interest through their wholly-owned subsidiaries Newport Cellular, Inc., Champlain Cellular, Inc., Westelcom Cellular, Inc., and Crown Point Cellular, Inc., respectively. Newport Telephone, K&S, Westelcom Communications, and Crown Point Technologies each proposed to transfer its interest in NY2CP to St. Lawrence Seaway RSA Cellular Partnership (St. Lawrence), the wireline licensee in New York RSA #1 – Jefferson, which would have resulted in St. Lawrence holding a controlling 57.2% interest in NY2CP. The application was placed on public notice on May 26, 1999 and was unopposed.

On June 3, 1999, the application was amended to substitute United States Cellular Operating Company (USCOC) as the transferee in place of St. Lawrence. This amendment was placed on public notice on June 23, 1999 and was unopposed. Because USCOC's ultimate parent company, Telephone and Data Systems, Inc. (TDS), also holds attributable interests in Rural Cellular Corporation (RCC), the ultimate parent company of the New York RSA #2 non-wireline licensee, USCOC sought a waiver of section 22.942 of the Commission's rules, the cellular "cross interest" rule. See 47 C.F.R. § 22.942. Subsequently, pursuant to a Recapitalization Agreement signed in October 1999 and amended in December 1999, RCC and TDS agreed to convert TDS's ownership interests in RCC in excess of five percent into preferred stock, which the Applicants argue is "debt" and therefore not attributable under Section 22.942(d)(4) of the

Commission's rules, 47 C.F.R. § 22.9429(d)(4).<sup>1</sup> Accordingly, USCOC no longer seeks a waiver of section 22.942.

On January 28, 2000, the application was amended again to reflect the purchase by Kington Management (Kington) of Newport Cellular, Westelcom Cellular, and Crown Point Cellular. and consequently the substitution of Kington for three of the original transferors -- Newport Telephone, Westelcom Communications, and Crown Point Technologies.

### GENERAL INFORMATION

Final action will not be taken on this application earlier than 31 days following the date of this Public Notice. See 47 U.S.C. § 309(b). Interested parties may file comments or petitions to deny no later than **March 27, 2000**. Oppositions to such pleadings may be filed no later than **April 6, 2000**. All filings should refer to **DA 00-359** and File No 0000013536.

Pursuant to 47 C.F.R. §1.1200(a), which permits the Commission to adopt modified or more stringent *ex parte* procedures in particular proceedings if the public interest so requires, we announce that this proceeding will be governed by **permit-but-disclose** *ex parte* procedures that are applicable to non-restricted proceedings under 47 C.F.R. 1.1206.

An original and four copies of all comments, petitions to deny, and oppositions must be filed with the Commission's Secretary, Magalie Roman Salas, 445 12th Street, S.W., TW-B204, Washington, D.C. 20554, in accordance with Section 1.5 1 (c) of the Commission's rules, 47 C.F.R. § 1.5 1 (c). **In addition, one copy of each pleading must be delivered to each of the following locations:** (1) the Commission's duplicating contractor, International Transcription Services, Inc. ("ITS"), 445 12th Street, S.W., Room CY-B402, Washington, D.C. 20554; (2) Office of Public Affairs, Reference Division, 445 12th Street, S.W., Room CY-A257, Washington, D.C. 20554; and (3) William Kunze, Commercial Wireless Division, Wireless Telecommunications Bureau, 445 12th Street, S.W., Room 4-C236, Washington, D.C. 20554.

Copies of the applications and any subsequently filed documents in this matter may be obtained from ITS. The applications and documents are also available for public inspection and copying during normal reference room hours at the following Commission office: Office of Public Affairs, Reference Operations Division, 445 12th Street, S.W., Room CY-A257, Washington, D.C. 20554. In addition, the applications listed herein are available electronically through the Wireless Telecommunications Bureau's Universal Licensing System, which may be accessed on the Commission's Internet website.

For further information, contact William Kunze, Wireless Telecommunications Bureau, Commercial Wireless Division at (202) 418-0620.

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<sup>1</sup> The same Recapitalization Agreement was at issue in the recent grant of applications for consent to assign certain licenses to RCC Holdings, Inc. See *Public Notice*, "Wireless Telecommunications Bureau Grants Consent for Assignment of Cellular, Microwave, and PCS Licenses from Triton Communications, L.L.C. and Triton Cellular Alabama 5 License Company, L.L.C. to RCC Holdings, Inc.," WT Dkt. No. 99-364 (WTB rel. Feb. 17, 2000).